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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 09/840,477 | 04/23/2001 | Richard N. Cameron | 005222.00319 | 5743 |

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| EXAMINER | |
|---|---|
| ADE, OGER GARCIA | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3687 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 07/11/2008 | PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/840,477 | CAMERON ET AL. | |
| | Examiner | Art Unit | |
| | GARCIA ADE | 3687 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *11 April 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *7-9* is/are pending in the application.

4a) Of the above claim(s) *42-57 and 69-74* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *7-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date. _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Art Unit: 3687

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election without traverse of Group I: claims 7-9, in the reply filed on 04/11/2008 is acknowledged. Applicant submits that the Group II independent claims may be searched with the Group I independent claim, and requests reconsideration as to whether Groups I and II may be examined together. In the instant case, invention Group I, has separate utility such as systems for: position determination, location finding based services and applications, remote control, wireless, wired, cabled, internet, web based communication systems, communicator devices, radio frequency identification (RFID) systems with single or plurality of devices, emergency and other alarm systems, medical patient monitor-sensor devices, medical diagnostics devices, fingerprint identification, fingerprint control, interactive communication or control of communications and control systems, communications, broadcasting, and telemetry systems. Invention Group II, has separate utility such as methods for dynamically customizing and/or configuring applications on devices. However, these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II, restriction for examination purposes as indicated is proper.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shore [2003/0149662 A1] in view of Business Editors and High-Tech Writers (hereafter Business) (March 2000).

Shore discloses a system for reverse-control of a wireless mobile device (700) embodied in a computer having a processor, a memory, a connection to the internet [via point of purchase/sate terminal 710] coupled to a wireless transmission channel port [box (0085)]; a vendor device electronically coupled to the computer and having a display interface [as illustrated in figure 3 (e.g. transmitted/received), and see paragraphs 87-89]; the transmission occurring via the wireless transmission channel port of the computer to a compatible wireless transmission channel port on a wireless mobile device (710) automatically when the wireless mobile device enters a transmission range of the wireless transmission

channel port [via short range data transmission, and as illustrated in figure 6 (eTicket System Software components), and see paragraphs 75, 83, 102-116].

Shore also discloses the step of causing the wireless mobile device (3104) to interact wirelessly with the vendor device (3407) and a related micropayments accounting system [via micropayment system box (0470)]. The interaction with the related micropayments accounting system will cause the vendor device to provide a product or service to the holder of the wireless mobile device (via approval of transaction using micropayment account 3203).

Shore further discloses the interaction with a related micropayments accounting system will cause a charge to be made to the account of the holder of the wireless mobile device [box (0455)], and/or a charge to be made to the account of the holder of the wireless mobile device produces a debit to a prepaid digital account or aggregates the debit with other current debits to be billed to the account holder at month end [box (482) via settlement procedures as per contractual agreements].

Shore however fails to explicitly disclose a program to take control of the wireless mobile device's menuing, interaction and display functions, and taking control of the wireless mobile device when the wireless mobile device enters a range of the product device.

Business discloses Wireless Application Protocol (WAP) technology that allows a variety of handheld communication devices to connect to the Internet. WAP requires only that a simple "microbrowser" be incorporated into the mobile phone or handheld computer, because the majority of all necessary functionality is built

into the communication network. This technology provides a standard data communication interface between WAP- enabled Web sites and handheld devices, thus expanding the reach of those sites. WAP is similar to .lava in that it simplifies application development. This reduces the cost of wireless application development and therefore encourages entry to the mobile industry by software developers, such as Accesspoint. When viewing a web site from a wireless device the user will see the information reformatted specifically to match the display format of the device being used.

From this teaching of Business, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the wireless information transfers of Shore to include a program that takes control of a user's mobile device as taught by Business in order to facilitate purchase of for example a can of coke from a vending machine, all with a cell phone.

***Response to Arguments***

5. Applicants' arguments filed on 5/14/2007 have been fully considered but they are not persuasive.

Applicants' argue that the cited reference Business does not discuss or imply "taking control of a wireless mobile device's menuing, interaction and display function". The Examiner respectfully disagrees. Business discloses a Wireless Application Protocol (WAP) technology that allows a variety of handheld communication devices to connect to the Internet or takes control of a wireless mobile device's menuing to access the Internet. Business further discloses that WAP

is aimed at turning mass-market mobile devices into network-based "smartphones" for example or a program that takes control of a user's mobile device in order to facilitate purchase of for example a can of coke from a vending machine or make payments over the Internet [see page 2, 3rd paragraph].

The elements are all known but not combined as claimed. The technical ability exists to combine the elements as claimed and the results of the combination are predictable. When combined, the elements perform the same function as they did separately. The prior art differs from the claim by the substitution of some components. The substituted components were known. The technical ability existed to substitute the components as claimed and the result of the substitution is predictable. Therefore, Applicants' arguments are deemed nonpersuasive.

***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GARCIA ADE whose telephone number is (571)272-5586. The examiner can normally be reached on M-F 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571.272.3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art Unit 3687

Garcia Ade
Examiner
Art Unit 3687

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| Application Number | Application/Control No. | Applicant(s)/Patent under Reexamination | |
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| | 09/840,477 | CAMERON ET AL. | |
| | Examiner | Art Unit | |
| | GARCIA ADE | 3687 | |